

2011

LRB-1187



Making of "/>

Feb. 13th-16th,
2011

Pt. 02

Kunkel, Mark

From: Hanle, Bob - DOA [bob.hanle@wisconsin.gov]

Sent: Tuesday, February 15, 2011 9:22 AM

To: Grant, Peter; Kunkel, Mark; Kuesel, Jeffery

Cc: Boggs, Breann C - DOA

Subject: RE: Create authority for UW-Madison

Thanks. Michael Duchek sent us an e-mail last night to that effect. Whether or not this initiative ends up on the cutting room floor when the Legislature takes it up, I want to thank you, Mark and Jeff (and anyone else who contributed) for all the effort you put in to get this done with very, very short notice.

Bob Hanle, Team Leader
State Budget Office
101 E. Wilson St. -- 10th Floor
P.O. Box 7864
Madison, WI 53707-7864
(608) 266-1037

From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]

Sent: Tuesday, February 15, 2011 8:58 AM

To: Boggs, Breann C - DOA; Rutherford, Lisa; Bazzell, Darrell

Cc: Hanle, Bob - DOA

Subject: RE: Create authority for UW-Madison

Apparently, what everyone got was an unproofed copy of the draft. It's being proofed this morning.

Peter

From: Boggs, Breann C - DOA [mailto:Breann.Boggs@wisconsin.gov]

Sent: Monday, February 14, 2011 7:30 PM

To: Rutherford, Lisa; Bazzell, Darrell

Cc: Grant, Peter; Hanle, Bob - DOA

Subject: FW: Create authority for UW-Madison

The final draft is attached.

Best,

Breann C. Boggs
Executive Policy and Budget Analyst
Wisconsin Department of Administration
Division of Executive Budget and Finance
608.266.2843
breann.boggs@wisconsin.gov

2/22/2011

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, February 15, 2011 11:49 AM
To: Kunkel, Mark

37.01 (7) "Student" means any person who is registered for study in the university for the current academic period. For the purpose of administering particular programs or functions involving students, the board shall **adopt rules** defining continuation or termination of student status during periods between academic periods.

37.11 (1m) Protection of people; custody and management of property. (a) The board **may promulgate rules....**

37.11 (1m) (c) The board **may promulgate rules....**

37.11 (1m) (cm) The board **shall promulgate rules....**

37.11 (2) Police authority. (a) The board shall have concurrent police power, with other authorized peace officers, over all property subject to its jurisdiction. Such concurrent police authority shall not be construed to reduce or lessen the authority of the police power of the community or communities in which the university is located. All university police officers shall cooperate with and be responsive to the local police authorities as they meet and exercise their statutory responsibilities. The designated agents of the board may arrest, with or without warrant, any person on such property who they have reasonable grounds to believe has violated a state law **or any rule promulgated under this chapter** and deliver such person to any court having jurisdiction over the violation and execute a complaint charging such person with the violation. This subsection does not impair the duty of any other peace officers within their jurisdictions to arrest and take before the proper court persons found violating any state law on such property.

37.11 (2) (b) The board may employ police for the university and a chief to head such police, or contract for police, all of whom shall be deemed peace officers under s. 939.22 (22) under the supervision and control of the chancellor or the chancellor's designee. Such police officers shall meet the minimum standards established for other police officers by the law enforcement standards board or a comparable agency. Such police shall preserve the peace on all property described under par. (a), enforce **all rules promulgated under this chapter** and all other laws, and for that purpose the chancellor or the chancellor's designee may call for aid from such other persons as is deemed necessary.

37.11 (4) Injunctive relief. The board may obtain injunctive relief to enforce this chapter or **any rules adopted under this chapter.**

37.11 (6) Financial aids. (a) The board may:

1. Make grants to students from funds budgeted to or controlled by the university and formulate policies **and promulgate rules for the grants.**

37.11 (6) (b) The board may not make a grant under par. (a) to a person whose name appears on the statewide support lien docket under s. 49.854 (2) (b), unless the person provides to the board a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with **rules promulgated under s. 49.858 (2) (a).**

37.11 (8) Parking **rules.** (a) The board may make general policies and shall authorize the chancellor **to promulgate rules** regulating the parking of motor vehicles on property under its jurisdiction.

37.11 (8) (b) The board shall establish fines for the violation of **any rule promulgated under par. (a).** The university may collect such fines together with moneys collected from the sale of parking permits and other fees established under par. (a), to be used only for the purpose of developing and operating parking or other transportation facilities at the university and for enforcing parking **rules under par. (a).**

37.11 (17) Sabbatical leave for instructional faculty. The board may grant sabbatical leave of up to one year to university faculty, in order to recognize and enhance teaching efforts and excellence, **under rules and procedures adopted by the board,** subject to the following conditions:

37.11 (21) Controlled substances and controlled substance analogs; discipline. Any student who engages in an activity, on campus or at an event sponsored by the university, that constitutes a violation of ch. 961 is subject to nonacademic

misconduct disciplinary sanctions, **as provided by the board by rule**. In determining the appropriate sanction, the board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a university environment that is free from controlled substances, as defined in s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m).

37.13 (2) Appointments. (a) Except as provided under par. (b), the board may grant a tenure appointment only upon the affirmative recommendation of the chancellor and the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendation upon impermissible factors, **as defined by the board by rule**.

37.13 (2) (b) The board may grant a tenure appointment without the affirmative recommendation of the appropriate academic department or its functional equivalent if all of the following apply:

1. The board has the affirmative recommendation of the chancellor.

2. A faculty committee **authorized by the board by rule** to review the negative recommendation of the academic department or its functional equivalent finds that the decision of the academic department or its functional equivalent was based upon impermissible factors, **as defined by the board by rule**.

3. The board has the affirmative recommendation of a committee appointed according to the policies and procedures of the university to review the individual's record with reference to criteria for tenure published by the university under **procedures established by the board by rule**. No person may be appointed to the committee under this subdivision unless the person is knowledgeable or experienced in the individual's academic field or in a substantially similar academic field. No member of the committee appointed under this subdivision may be a member of the academic department, or its functional equivalent, that made the negative recommendation. The committee appointed under this subdivision may not base its tenure recommendation upon impermissible factors, **as defined by the board by rule**.

37.13 (2) (d) A probationary appointment shall not exceed 7 consecutive academic years in a full-time position. A leave of absence, sabbatical or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7-year period. The **board may promulgate rules** specifying additional circumstances that do not constitute a break in continuous service and that shall not be included in the 7-year period.

37.13 (3) **Rules**. The board and the faculty **shall adopt rules** for tenure and probationary appointments, for the review of faculty performance and for the nonretention and dismissal of faculty members.

37.13 (4) Continuation of appointment. (a) Any person who holds a tenure appointment under ch. 36, 1971 stats., and ch. 37, 1971 stats., and **related rules** on July 9, 1974, shall continue to hold tenure as defined under those chapters and **related rules**. Any person who holds a tenure appointment under sub. (2) (a) or (b) and **related rules** on the effective date of this paragraph [LRB inserts date], shall continue to hold tenure under that subsection and related rules.

(b) Any person who holds a probationary appointment under sub. (2) (d) and **related rules** on the effective date of this paragraph [LRB inserts date], shall continue to enjoy the contractual rights and guarantees as defined under that paragraph and **related rules**.

37.13 (5) Procedural guarantees. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person's contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final. The board and the faculty shall develop procedures for the notice and hearing that **shall be promulgated by rule**.

37.25 (14) Graduate student financial aid. The board shall establish a grant program for minority and disadvantaged graduate students enrolled in the university. The grants shall be awarded from the appropriation under s. 20.280 (1) (a). The board shall give preference in awarding grants under this subsection to residents of this state. The board may not make a grant under this subsection to a person whose name appears on the statewide support lien docket under s. 49.854 (2) (b), unless the person provides to the board a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with **rules promulgated under s. 49.858 (2) (a)**.

37.34 (2) The board shall establish a grant program for minority undergraduates enrolled in the university. The board shall designate all grants under this subsection as Lawton grants. The board may not make a grant under this subsection to a person whose name appears on the statewide support lien docket under s. 49.854 (2) (b), unless the person provides to the board a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with **rules promulgated under s. 49.858 (2) (a)**.

37.43 Accommodation of religious beliefs. The board shall adopt policies providing for the reasonable accommodation of a student's sincerely held religious beliefs with regard to all examinations and other academic requirements. The **rules** shall include all of the following:

- (1) Written and timely notification of all students and instructors of the **rules** and complaint process.

Grant, Peter

From: Kunkel, Mark
Sent: Tuesday, February 15, 2011 12:53 PM
To: Grant, Peter
Subject: Rule references in new ch. 37

Here are references to rules in new ch. 37 that may need fixing. Note that I did not include 37.11 (1m) (a), (c), and (cm) and (8), because it is clear those rules are subject to ch. 227.

✓ 37.01 (7) "Student" means any person who is registered for study in the university for the current academic period. For the purpose of administering particular programs or functions involving students, the board shall **adopt rules** defining continuation or termination of student status during periods between academic periods.

✓ 37.11 (2) Police authority. (a) The board shall have concurrent police power, with other authorized peace officers, over all property subject to its jurisdiction. Such concurrent police authority shall not be construed to reduce or lessen the authority of the police power of the community or communities in which the university is located. All university police officers shall cooperate with and be responsive to the local police authorities as they meet and exercise their statutory responsibilities. The designated agents of the board may arrest, with or without warrant, any person on such property who they have reasonable grounds to believe has violated a state law **or any rule promulgated under this chapter** and deliver such person to any court having jurisdiction over the violation and execute a complaint charging such person with the violation. This subsection does not impair the duty of any other peace officers within their jurisdictions to arrest and take before the proper court persons found violating any state law on such property.

✓ 37.11 (2) (b) The board may employ police for the university and a chief to head such police, or contract for police, all of whom shall be deemed peace officers under s. 939.22 (22) under the supervision and control of the chancellor or the chancellor's designee. Such police officers shall meet the minimum standards established for other police officers by the law enforcement standards board or a comparable agency. Such police shall preserve the peace on all property described under par. (a), enforce **all rules promulgated under this chapter** and all other laws, and for that purpose the chancellor or the chancellor's designee may call for aid from such other persons as is deemed necessary.

? 37.11 (4) Injunctive relief. The board may obtain injunctive relief to enforce this chapter or **any rules adopted under this chapter**.

37.11 (6) Financial aids. (a) The board may:

✓ 1. Make grants to students from funds budgeted to or controlled by the university and formulate policies **and promulgate rules for the grants**.

✓ 37.11 (17) Sabbatical leave for instructional faculty. The board may grant sabbatical leave of up to one year to university faculty, in order to recognize and enhance teaching efforts and excellence, **under rules and procedures adopted by the board**, subject to the following conditions:

✓ 37.11 (21) Controlled substances and controlled substance analogs; discipline. Any student who engages in an activity, on campus or at an event sponsored by the university, that constitutes a violation of ch. 961 is subject to nonacademic misconduct disciplinary sanctions, **as provided by the board by rule**. In determining the appropriate sanction, the board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a university environment that is free from controlled substances, as defined in s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m).

✓ 37.13 (2) Appointments. (a) Except as provided under par. (b), the board may grant a tenure appointment only upon the affirmative recommendation of the chancellor and the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendation upon impermissible factors, **as defined by the board by rule**.

37.13 (2) (b) The board may grant a tenure appointment without the affirmative recommendation of the appropriate academic department or its functional equivalent if all of the following apply:

1. The board has the affirmative recommendation of the chancellor.

2. A faculty committee **authorized by the board by rule** to review the negative recommendation of the academic department or its functional equivalent finds that the decision of the academic department or its functional equivalent was based upon impermissible factors, **as defined by the board by rule**.

3. The board has the affirmative recommendation of a committee appointed according to the policies and procedures of the university to review the individual's record with reference to criteria for tenure published by the university under **procedures established by the board by rule**. No person may be appointed to the committee under this subdivision unless the person is knowledgeable or experienced in the individual's academic field or in a substantially similar academic field. No member of the committee appointed under this subdivision may be a member of the academic department, or its functional equivalent, that made the negative recommendation. The committee appointed under this subdivision may not base its tenure recommendation upon impermissible factors, **as defined by the board by rule**.

37.13 (2) (d) A probationary appointment shall not exceed 7 consecutive academic years in a full-time position. A leave of absence, sabbatical or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7-year period. The **board may promulgate rules** specifying additional circumstances that do not constitute a break in continuous service and that shall not be included in the 7-year period.

37.13 (3) **Rules**. The board and the faculty **shall adopt rules** for tenure and probationary appointments, for the review of faculty performance and for the nonretention and dismissal of faculty members.

37.13 (4) Continuation of appointment. (a) Any person who holds a tenure appointment under ch. 36, 1971 stats., and ch. 37, 1971 stats., and **related rules** on July 9, 1974, shall continue to hold tenure as defined under those chapters and **related rules**. Any person who holds a tenure appointment under sub. (2) (a) or (b) and **related rules** on the effective date of this paragraph [LRB inserts date], shall continue to hold tenure under that subsection and related rules.

(b) Any person who holds a probationary appointment under sub. (2) (d) and **related rules** on the effective date of this paragraph [LRB inserts date], shall continue to enjoy the contractual rights and guarantees as defined under that paragraph and **related rules**.

37.13 (5) Procedural guarantees. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person's contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final. The board and the faculty shall develop procedures for the notice and hearing that **shall be promulgated by rule**.

37.43 Accommodation of religious beliefs. The board shall adopt policies providing for the reasonable accommodation of a student's sincerely held religious beliefs with regard to all examinations and other academic requirements. The **rules** shall include all of the following:

(1) Written and timely notification of all students and instructors of the **rules** and complaint process.

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 12:56 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: RE: Answer to questions
Signed By: nlynch@vc.wisc.edu

Peter,

Correction to #1 - Keep enforcement just for rules promulgated under 227. Check Line #3 on p. 106 as well.

Nancy

Nancy K. Lynch
Associate Director
Senior University Legal Counsel
Administrative Legal Services
University of Wisconsin-Madison
361 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706
Email: nlynch@vc.wisc.edu
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<http://legal.wisc.edu>

From: Lynch, Nancy
Sent: Tuesday, February 15, 2011 12:47 PM
To: 'Grant, Peter'
Cc: Rutherford, Lisa
Subject: Answer to questions
Importance: High

Peter,

Our answers to your questions:

1. Page 106, line 14: this is an example of a number of spots where the term "promulgate" is used in referring to rules. And this section directs UW police to enforce "rules promulgated *under this chapter*." Do you intend for the UW police to enforce all "rules" adopted under ch. 37 even if they are not promulgated under ch. 227? Only the rules under 37.11 (1m) (a), (c) and (cm) and (8) are promulgated under ch. 227.

Answer: suggest using "rules established or promulgated under this chapter"

2. Page 124, line 19: should "extension" be stricken?

2/15/2011

✓ Answer: safest approach is to leave it in.

3. On page 153, sections 332 and 333, we added references to 37.27 (3n) and (3p). Shouldn't the same thing be done in 36.27 (3n) (b) and (3p) (b) and 37.27 (3n) (b) and (3p) (b)?

Answer: In reviewing those sections, it looks like the already appropriately cite each other. Not sure what you are asking to be changed. Sorry.

✓ 4. On page 193, lines 18-19, should this refer only to the board of trustees of the UW-Madison, only to the board of regents of the UW System, or to both?

Answer: We think it is best if you add the Regents back in.

We have a few additional changes that will be coming shortly. Thanks.

Nancy

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 1:44 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Changes to Draft 4
Signed By: nlynch@vc.wisc.edu
Attachments: 2-15-11 OALS Review of #4 sent to LRB.pdf

Peter,

Attached is a pdf containing pages of Draft 4 (sent to us 2/14) on which we have outlined our changes. Please let us know if you have questions about any of the changes. Thanks.

Nancy

Nancy K. Lynch
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2/15/2011



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1187/P1
MDK&PG:wlj&jld:all

DOA:.....Boggs, BB0258 - Create authority for UW-Madison

FOR 2011-13 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
EDUCATION

HIGHER EDUCATION

Currently, the UW System consists of 13 four-year institutions, including the UW-Madison, and 13 two-year colleges. The UW System is governed by the Board of Regents, which consists of the state superintendent of public instruction, the president of the technical college system, 14 citizen members, and two students. The latter 16 members are appointed by the governor and confirmed by the senate. There is a share hierarchical system of governance for the UW System: the Board of Regents has primary responsibility, followed by the UW System president, the chancellors of the institutions, the faculty, and the academic staff and students. There are three boards created in or attached to the UW System: the Environmental Education Board; the Laboratory of Hygiene Board, and the Veterinary Diagnostic Laboratory.

This bill creates an authority entitled the University of Wisconsin-Madison, consisting of the current UW-Madison. The authority is governed by the Board of Trustees, consisting of 21 members, 11 of whom are appointed by the governor, and the chancellor, who serves as a nonvoting member. The chancellor is appointed by the Board of Trustees to serve at its pleasure and is the chief executive officer of the authority. The shared governance system is preserved.

The bill transfers all assets and liabilities of the UW-Madison, including real property, and all incumbent UW-Madison employees, to the authority. Until July

The authority remains the constitutionally required public institution of higher education located at the seat of government.

The authority remains a participating employer under Chapter 40 and all authority employees in the Wisconsin Retirement System, health insurance, and all other benefits under Chapter 40.

1, 2012, the authority must adhere to the terms of any collective bargaining agreement covering the employees, and the authority is considered an agency under the state employment relations laws for all purposes. Beginning July 1, 2012, the authority must implement its own personnel system. Tenured faculty at the UW-Madison retain their tenure at the authority. All contracts entered into by the Board of Regents that are primarily related to the operation of the UW-Madison, including the contracts with the Board of Directors of the UW Hospitals and Clinics Authority, are transferred to the authority's Board of Trustees.

The bill does not require the Board of Trustees to promulgate administrative rules except for rules relating to conduct on university property. The bill authorizes the Board of Trustees to condemn property.

Current law prohibits the Board of Regents of the UW System from increasing resident undergraduate tuition beyond an amount sufficient to fund certain specified costs and activities, including the amounts specified in the state budget act, the approved recommendations of the director of the Office of State Employment Relations for staff compensation and fringe benefits, and distance education. This bill ~~authorizes the Board of Trustees to independently establish tuition for the authority.~~ places no limits on the amount of tuition that the authority may charge.

The authority is not a state agency and therefore is not required to deposit moneys that it receives into the state treasury. However, it must transfer daily to the state treasurer for deposit into the local government pooled-investment fund the collected cash balance from all sources except gifts, grants, and donations. The bill authorizes the Board of Trustees to transfer gifts, grants, and donations to the UW Foundation. ~~Under this bill, the State Laboratory of Hygiene and the Veterinary Diagnostic Laboratory are maintained at the authority and separate boards will no longer be statutorily required.~~ The bill abolishes the Laboratory of Hygiene Board and the Veterinary Diagnostic Laboratory Board and transfer their functions to the authority.

See also STATE GOVERNMENT - STATE BUILDING PLAN and OTHER STATE GOVERNMENT.

STATE GOVERNMENT

STATE BUILDING PROGRAM

Currently, with limited exceptions, each state agency, including the UW System, must submit for approval of the Building Commission any contract for the engineering, design, construction, reconstruction, remodeling, or expansion of a building, structure, or facility if the project cost exceeds \$150,000; if the project cost exceeds \$500,000, the project must be enumerated in the Authorized State Building Program, which is set forth by law. Currently, DOA manages all engineering, design, and construction work for state agencies, including the UW System, but DOA may delegate its management authority to an agency for a specific project. If management authority for a project is delegated, the agency to which authority is delegated is subject to the same requirements that apply to DOA if DOA manages the project directly. With limited exceptions, DOA must provide public notice of proposed work and let contracts to the lowest responsible bidder. Plans and specifications for all work on UW projects are subject to approval of DOA. DOA may assess and collect from state agencies, including the UW System, a construction project management fee to cover its costs in managing each project. With limited exceptions, each engineering, design, or construction contract for a state building,

The authority will continue to receive state budget appropriations which will remain deposited in the state treasury. Apart from state budget appropriations, the authority is not required to deposit moneys that it receives into the state treasury.

are maintained at the authority and separate boards will no longer be statutorily required.

Wisconsin-Madison may make a purchase without inviting ^{formal} bids or proposals if the estimated cost does not exceed \$50,000.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 13.106 (title) of the statutes is amended to read:

2 **13.106 (title) ~~Medical College of Wisconsin and UW-Madison Medical~~**
3 **~~School~~ school reports.**

4 SECTION 2. 13.106 (1) (intro.) of the statutes is amended to read:

5 13.106 (1) (intro.) The Medical College of Wisconsin and the University of
6 ~~Wisconsin-Madison Medical~~ Wisconsin School of Medicine and Public Health shall
7 biennially report to the governor and the joint committee on finance on the:

8 SECTION 3. 13.106 (2) of the statutes is amended to read:

9 13.106 (2) The Medical College of Wisconsin and the University of
10 ~~Wisconsin-Madison Medical~~ Wisconsin School of Medicine and Public Health shall
11 submit a biennial report containing financial summaries for the college and school
12 to the governor and the joint committee on finance, in a consistent format and
13 methodology to be developed in consultation with the medical education review
14 committee under s. 39.16.

15 SECTION 4. 13.106 (3) (intro.) of the statutes is amended to read:

16 13.106 (3) (intro.) By October 15 of each even-numbered year, the Medical
17 College of Wisconsin and the University of ~~Wisconsin-Madison Medical~~ Wisconsin
18 School of Medicine and Public Health shall submit a report to the governor and to
19 the chief clerk of each house of the legislature for distribution to the legislature under
20 s. 13.172 (2) that provides information on all of the following:

1 Wisconsin System, the technical college system board, the department of public
2 instruction and other entities, support the development of courses for the instruction
3 of professional employees who are licensed by the state superintendent of public
4 instruction concerning the effective use of educational technology.

5 **SECTION 148.** 16.993 (7) of the statutes is amended to read:

6 16.993 (7) Purchase educational technology materials, supplies, equipment,
7 and contractual services for school districts, cooperative educational service
8 agencies, technical college districts, the Board of Trustees of the University of
9 Wisconsin-Madison, and the ~~board of regents~~ Board of Regents of the University of
10 Wisconsin System under s. 16.72 (8), and establish standards and specifications for
11 purchases of educational technology hardware and software by school districts,
12 cooperative educational service agencies, technical college districts, and the ~~board~~
13 ~~of regents~~ Board of Regents of the University of Wisconsin System.

14 **SECTION 149.** 19.32 (1) (w) of the statutes is created to read:

15 19.32 (1) (w) "Public institution of higher education" means the University of
16 Wisconsin-Madison, an institution within the University of Wisconsin System, or a
17 technical college.

18 **SECTION 150.** 19.36 (14) of the statutes is created to read:

19 19.36 (14) Any authority may withhold from access under s. 19.35 (1)
20 information in a record that is produced or collected by or for the faculty or staff of
21 a public institution of higher education in the conduct of, or as a result of, study or
22 research on a commercial, scientific, or technical subject, whether sponsored by the
23 institution alone or in conjunction with an authority or a private person, until that
24 information is publicly disseminated or patented.

[....NOTE: Should 19.42 (10) be amended to add UW-Madison?]

*It seems unnecessary. UW system not included. Chancellor
and Vice Chancellor added to 19.42 (13)(bm).*



1 The school shall utilize practical demonstration techniques to train teachers and
2 other support personnel under s. 115.28 (7) (c).

3 **SECTION 242.** 36.25 (21) of the statutes is renumbered 37.25 (21) and 37.25 (21)
4 (intro.), (a) and (b), as renumbered, are amended to read:

5 37.25 (21) SCHOOL OF LAW; PART-TIME ENROLLMENT AND NIGHT COURSES. The board
6 shall direct the School of Law to do all the following:

7 (a) Allow resident students who are admitted to law school to enroll in
8 part-time programs;

9 (b) Allow resident students who are admitted to law school 6 years after first
10 enrolling to complete requirements for a degree; ~~and~~.

11 **SECTION 243.** 36.25 (21m) of the statutes is renumbered 37.25 (21m) and
12 amended to read:

13 37.25 (21m) GREAT LAKES INDIAN LAW PROGRAM. The board shall establish a
14 Great Lakes Indian law program at the ~~University of Wisconsin-Madison Law~~
15 ~~School~~ university.

16 **SECTION 244.** 36.25 (23) of the statutes is renumbered 37.25 (23) and amended
17 to read:

18 37.25 (23) ROBERT M. LA FOLLETTE INSTITUTE OF PUBLIC AFFAIRS. There is
19 established a Robert M. La Follette institute of public affairs at the ~~University of~~
20 ~~Wisconsin-Madison Wisconsin~~ ^{university.}. The institute shall engage in research, public
21 service and educational activities to advance the knowledge of public affairs and the
22 application of that knowledge to the needs of this state.

23 **SECTION 245.** 36.25 (30m) of the statutes is renumbered 37.25 (30m) and
24 amended to read:

1 **37.01 Definitions.** In this chapter:

2 (1) "Academic staff" means those university employees who, immediately prior
3 to the effective date of this subsection [LRB inserts date], were designated as
4 academic staff of the University of Wisconsin-Madison and those university
5 employees hired as or designated as academic staff by the board.

6 (1m) "Authority" means the authority created in this chapter.

7 (2) "Board" means the Board of Trustees of the authority.

8 (3) "Board of Regents" means the Board of Regents of the system.

9 (4) "Campus" means the publicly owned or leased buildings and grounds that
10 comprise all or part of the university.

 ****NOTE: Is "publicly owned" correct? *yes*

11 (5) "Chancellor" means the chief executive of the university.

12 (6) "Faculty" means persons who hold the rank of professor, associate professor,
13 assistant professor, or instructor in an academic department or its functional
14 equivalent in the university and such other employees as may be designated by the
15 chancellor and faculty.

16 (7) "Student" means any person who is registered for study in the university
17 for the current academic period. For the purpose of administering particular
18 programs or functions involving students, the board shall adopt rules defining
19 continuation or termination of student status during periods between academic
20 periods.

21 (8) "System" means the University of Wisconsin System.

22 (9) "University" means the university operated by the board under this
23 chapter.

1 continue to enjoy the contractual rights and guarantees as defined under that
2 paragraph and related rules.

3 (5) **PROCEDURAL GUARANTEES.** Any person having tenure may be dismissed only
4 for just cause and only after due notice and hearing. Any person having a
5 probationary appointment may be dismissed prior to the end of the person's contract
6 term only for just cause and only after due notice and hearing. The action and
7 decision of the board in such matters shall be final. The board and the faculty shall
8 develop procedures for the notice and hearing that shall be promulgated by rule.

9 **37.14 Wisconsin distinguished professorships.** (1) The board may
10 establish distinguished professorships under this section.

11 (2) The board may pay under this section the salary and fringe benefit costs
12 of the professor holding the distinguished professorship and of any graduate
13 assistant assigned to the professor, and the equipment, supplies, and travel costs of
14 the professor and the graduate assistants assigned to the professor.

15 **37.15 Academic staff appointments.** A person having an academic staff
16 appointment for a term may be dismissed prior to the end of the appointment term
17 only for just cause and only after due notice and hearing. A person having an
18 academic staff appointment for an indefinite term who has attained permanent
19 status may be dismissed only for just cause and only after due notice and hearing.

20 **37.17 Executive appointments.** An appointment to an executive position,
21 as determined by the board, shall be at the pleasure of the board. A person holding
22 a tenured or academic staff appointment under s. 37.13 or 37.15 ^{shall not lose} ~~does not have~~ that
23 appointment by accepting an executive appointment.

24 **37.19 Other appointments.** (1) The board may make or authorize
25 appointments for former classified service employees, student assistants, and

1 employees in training, such as residents, interns, post-doctoral fellows, or trainees
2 or associates.

3 (2) The board may make or authorize appointments for staff other than faculty,
4 academic staff, limited-term employees, sessional employees, project employees,
5 supervisors, management, persons who are privy to confidential matters affecting
6 the employer-employee relationship, persons identified in sub. (1), persons whose
7 employment is a necessary part of their training, student assistants, and student
8 hourly help.

9 (4) ~~(3)~~ Appointments made under this section are not subject to s. 37.15.

* insert new
(3)
See Attached

10 **37.21 Lapse of appointments.** Notwithstanding ss. 37.13 (4) and 37.15, the
11 board may, with appropriate notice, terminate any appointment when a financial
12 emergency exists. No person may be employed at the university within 2 years to
13 perform reasonably comparable duties to those of the person whose appointment was
14 terminated without first offering such person a reappointment. The board, after
15 consultation with the faculty and chancellor, shall adopt procedures to be followed
16 in the event of termination under this section.

17 **37.23 Conflict of interest.** No member of the board, or other person
18 appointed or employed in any position in the university, may at any time act as an
19 agent for any person or organization if the act would create a conflict of interest with
20 the terms of the person's service in the university. The board shall define conflicts
21 of interest and adopt policies related thereto.

22 **37.25 Special programs. (2) WISCONSIN RESIDENTS PREFERENCE IN HOUSING.**
23 Preference as to rooming, boarding, and apartment facilities in the use of living units
24 operated by the university shall, for the following school year, be given to students
25 who are residents of this state and who apply before March 15, unless a later date

* See attached for new sub. 37.19(3).

NEW SUBSECTION 37.19 (3)

- (3) (a) On and after July 1, 2012, all classified permanent civil service employees who have become employees of the board of trustees prior to July 1, 2012 may be dismissed only for just cause and only after due notice and hearing.
- (b) All appointments to positions other than appointments under ss. 37.13, 37.15; 37.17, sub. (a) of this section, limited term employees, project employees, student assistants, employees in training such as residents, interns, post-doctoral fellows, or trainees or associates made on or after July 1, 2012 shall have such procedural guarantees as determined by the board of trustees pursuant to s. 37.11 (1g).

Exempt for just cause hearing.

under par (c) 13, 11, 10
and exempt for cause

all employees made by 7/1/12
have the same guarantee
the law under (1g)

that is the person
who implements

1 40.05 (5) (b) 4. The accrual and crediting of sick leave shall be determined in
2 accordance with ss. 13.121 (4), 36.30, 37.30, 230.35 (2), 233.10 and 757.02 (5) and
3 subch. I, V, or VI of ch. 111.

4 **SECTION 366.** 40.22 (2) (g) of the statutes is amended to read:

5 40.22 (2) (g) The employee is appointed by the ~~university board of regents of~~
6 the University of Wisconsin System under s. 36.19, ~~by the board of trustees of the~~
7 University of Wisconsin-Madison under s. 37.19, or by the University of Wisconsin
8 Hospitals and Clinics Authority, as a student assistant or employee in training or is
9 appointed by a school or other education system in which the person is regularly
10 enrolled as a student and is attending classes to perform services incidental to the
11 person's course of study at that school or education system.

12 **SECTION 367.** 40.22 (2) (h) of the statutes is amended to read:

13 40.22 (2) (h) The employee is teaching while on leave from an educational
14 institution not a part of the University of Wisconsin-Madison or University of
15 Wisconsin System, if the person is a visiting professor, visiting associate professor,
16 visiting assistant professor or visiting lecturer at the university and if the
17 employment at the university is all within 12 consecutive calendar months. If the
18 employment at the university is continued beyond the 12-month period the person
19 shall, at the start of the 13th consecutive calendar month of employment, come under
20 the system for future service.

21 **SECTION 368.** 40.52 (3) of the statutes is amended to read:

22 40.52 (3) The group insurance board, after consulting with the ~~board of regents~~
23 Board of Trustee^s of the University of Wisconsin-Madison and the Board of Regents
24 of the University of Wisconsin System, shall establish the terms of a health insurance
25 plan for graduate assistants, and for employees-in-training designated by the ~~board~~

1 **SECTION 473.** 285.59 (1) (b) of the statutes, as affected by 2011 Wisconsin Act
2 7, is amended to read:

3 285.59 (1) (b) "State agency" means any office, department, agency, institution
4 of higher education, association, society or other body in state government created
5 or authorized to be created by the constitution or any law which is entitled to expend
6 moneys appropriated by law, including the legislature and the courts, the Wisconsin
7 Housing and Economic Development Authority, the Bradley Center Sports and
8 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
9 Authority, the University of Wisconsin-Madison, the Fox River Navigational System
10 Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care
11 Authority, the Wisconsin Economic Development Corporation, and the Wisconsin
12 Health and Educational Facilities Authority.

 ****NOTE: The above requires the UW to comply with ozone-depleting refrigerant
recovery requirements that apply to other state agencies.

13 **SECTION 474.** 287.03 (1) (c) of the statutes is amended to read:

14 287.03 (1) (c) Coordinate research, technical assistance and education
15 programs under this chapter with related activities of the University of
16 Wisconsin-Madison or University of Wisconsin System.

17 **SECTION 475.** 321.40 (1) (c) 1m. of the statutes is created to read:

18 321.40 (1) (c) 1m. The University of Wisconsin. ✓ - Madison

19 **SECTION 476.** 321.65 (1) (a) 2. of the statutes is amended to read:

20 321.65 (1) (a) 2. Active service with the state laboratory of hygiene under s.
21 ~~36.25 (11) (em)~~ 37.57 (6) for the purpose of assisting the department of health services
22 under s. 250.042 during a state of emergency relating to public health declared by
23 the governor under s. 323.10.



1 (1) TRANSFER OF UNIVERSITY OF WISCONSIN-MADISON.

2 (a) *Definitions.* In this subsection:

3 1. "Authority" means the University of Wisconsin-Madison authority, as
4 created by this act.

5 2. "Board of Trustees" means the board of trustees of the authority.

6 3. "Board of Regents" means the board of regents of the system.

7 4. "Secretary" means the secretary of administration.

8 5. "System" means the University of Wisconsin System.

9 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
10 liabilities of the system, including real property and moneys in the university trust
11 funds, that relate to the operation of the University of Wisconsin-Madison, as
12 determined by the secretary, shall become the assets and liabilities of the authority.

13 (c) *Tangible personal property; records.* On the effective date of this paragraph,
14 all tangible personal property, including records, of the system that relates to the
15 operation of the University of Wisconsin-Madison, as determined by the secretary,
16 is transferred to the authority.

17 (d) *Employees.* All incumbent employees holding positions in the system and
18 assigned to the University of Wisconsin-Madison are transferred on the effective
19 date of this paragraph to the authority. ~~Until~~ ^{From} July 1, 2012, ^{1/1} ~~7~~ ^t Through June 30, 2012,
20 the authority shall adhere to the terms of any collective bargaining agreement
21 covering the employees that is in force on the effective date of this paragraph,
22 including terms relating to employer payment of any employee required
23 contributions under the Wisconsin Retirement System and employer payment of any
24 health insurance premiums on behalf of employees. Beginning July 1, 2012, the
25 authority shall establish the compensation and benefits of the employees under the

1 terms of the personnel system established by the board of trustees under section
2 37.11 (1g) of the statutes, as created by this act.

3 (e) *Contracts and agreements.* 1. All contracts entered into by the Board of
4 Regents in effect on the effective date of this paragraph that are primarily related
5 to the operation of the University of Wisconsin-Madison, [as determined by the
6 secretary] remain in effect and are transferred to the Board of Trustees.

How is
this intended
to operate.
Perhaps make
Secretary a
tie breaker rather
than initial
decision-maker
we have
thousands
of contracts

7 2. All agreements entered into between the Board of Regents and the Board of
8 Directors of the University of Wisconsin Hospitals and Clinics Authority under
9 section 233.04 (7) and (7m) of the statutes in effect on the effective date of this
10 paragraph remain in effect and are transferred to the Board of Trustees.

11 3. The Board of Trustees shall carry out any obligations under such contracts
12 and agreements until the contract or agreement is modified or rescinded by the
13 Board of Trustees to the extent allowed under the contract or agreement.

14 (em) *Cooperative agreements.* Notwithstanding paragraph (e), any academic,
15 research, or outreach program or activity that was being conducted by the University
16 of Wisconsin-Madison by means of a cooperative agreement or memorandum of
17 understanding with an institution within the system, the University of
18 Wisconsin-Extension, or the University of Wisconsin Colleges immediately before
19 the effective date of this paragraph continues regardless of any changes in the
20 structure or mechanism of funding the program or activity until the Board of
21 Trustees and the other institution mutually agree to modify the agreement or
22 memorandum of understanding or funds are no longer appropriated for the program
23 or activity.

24 (f) *Rules.* The Board of Trustees shall enforce the rules promulgated by the
25 Board of Regents under section 36.11 (1) (a), (c), and (cm) of the statutes, as affected

1 (1) UNIVERSITY OF WISCONSIN-MADISON EMPLOYEES. Notwithstanding section
2 230.03 (3) of the statutes, the University of Wisconsin-Madison authority shall be
3 considered an agency, as defined in section 230.03 of the statutes, until July 1, 2012,
4 for all purposes under chapter 230 of the statutes and all employees of the University
5 of Wisconsin-Madison who were in the classified service of the state civil service and
6 who were transferred to the authority under SECTION 9152 (1) (d) shall have all the
7 rights and privileges offered classified employees until July 1, 2012. ** Insert - see below*

8 (2) UNIVERSITY OF WISCONSIN-MADISON BOARD OF TRUSTEES; INITIAL
9 APPOINTMENTS. Notwithstanding the lengths of the terms specified in section 37.02
10 (1) (a) of the statutes, as created by this act, the initial members of the Board of
11 Trustees of the University of Wisconsin-Madison shall be initially appointed for the
12 following terms:

13 (a) The member appointed under section 37.02 (1) (a) 1. a. of the statutes, as
14 created by this act, the member appointed under section 37.02 (1) (a) 1. b. of the
15 statutes, as created by this act, 2 members appointed under section 37.02 (1) (a) 1.
16 c. of the statutes, as created by this act, a member appointed under section 37.02 (1)
17 (a) 2. a. of the statutes, as created by this act, the member appointed under section
18 37.02 (1) (a) 2. b. of the statutes, as created by this act, and 2 members appointed
19 under section 37.02 (1) (a) 2. c. of the statutes, as created by this act, for terms
20 expiring on May 1, 2014.

21 (b) Four members appointed under section 37.02 (1) (a) 1. c. of the statutes, as
22 created by this act, 2 members appointed under section 37.02 (1) (a) 2. d. of the
23 statutes, as created by this act, and the member appointed under section 37.02 (1)

24 (a) 3. of the statutes, as created by this act, for terms expiring on May 1, 2013.

Add to (1) above
** The Department of Employee Trust Funds shall continue to administer the program defined in section 230.12 (a) on behalf of employees of the University of Wisconsin-Madison as defined in ss. 37.13, 37.15 and 37.17 until June 30, 2012.*

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 2:28 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: RE: Answer to questions
Signed By: nlynch@vc.wisc.edu

Peter,

Thank you for the clarification. We think your proposal is appropriate for the 36.27 piece. Also, regarding #2 below, a second glance (or third...) suggests you can delete "extension." Thanks for your patience.

Finally, has there been any change in the process as you described on Friday regarding when the draft bill will be locked (no more changes)? Best guess as to whether another version will come today? If another version is issued today, will you be in a position to accept changes/corrections? Thank you.

Nancy

Nancy K. Lynch
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<http://legal.wisc.edu>

From: Grant, Peter [<mailto:Peter.Grant@legis.wisconsin.gov>]
Sent: Tuesday, February 15, 2011 1:46 PM
To: Lynch, Nancy
Subject: RE: Answer to questions

Hi Nancy,

Thanks for your responses.

Regarding the third item in my list, sorry I wasn't more clear. Take a look at 36.27 (3n) (b) (intro.). It's not affected in the draft, and I'm suggesting that it should be. It should cross-reference not only 38.24 (7) but also 37.27 (3n) (b). Same thing with 36.27 (3p) (b). And then, in 37.27 (3n) and (3p), we should cross-

2/15/2011

reference 36.27 (3n) and 36.27 (3p). See what I mean?

Peter

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 12:56 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: RE: Answer to questions

Peter,

Correction to #1 - Keep enforcement just for rules promulgated under 227. Check Line #3 on p. 106 as well.

Nancy

Nancy K. Lynch
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<http://legal.wisc.edu>

From: Lynch, Nancy
Sent: Tuesday, February 15, 2011 12:47 PM
To: 'Grant, Peter'
Cc: Rutherford, Lisa
Subject: Answer to questions
Importance: High

Peter,

Our answers to your questions:

1. Page 106, line 14: this is an example of a number of spots where the term "promulgate" is used in referring to rules. And this section directs UW police to enforce "rules promulgated *under this chapter*." Do you intend for the UW police to enforce all "rules" adopted under ch. 37 even if they are not promulgated under ch. 227? Only the rules under 37.11 (1m) (a), (c) and (cm) and (8) are promulgated under ch. 227.

Answer: suggest using "rules established or promulgated under this chapter"

2. Page 124, line 19: should "extension" be stricken?

2/15/2011

Answer: safest approach is to leave it in.

3. On page 153, sections 332 and 333, we added references to 37.27 (3n) and (3p). Shouldn't the same thing be done in 36.27 (3n) (b) and (3p) (b) and 37.27 (3n) (b) and (3p) (b)?

Answer: In reviewing those sections, it looks like they already appropriately cite each other. Not sure what you are asking to be changed. Sorry.

4. On page 193, lines 18-19, should this refer only to the board of trustees of the UW-Madison, only to the board of regents of the UW System, or to both?

Answer: We think it is best if you add the Regents back in.

We have a few additional changes that will be coming shortly. Thanks.

Nancy

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 4:42 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: RE: Changes to Draft 4
Signed By: nlynch@vc.wisc.edu

Peter,

Responses are below in all caps. Thanks.

Nancy

From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Tuesday, February 15, 2011 3:08 PM
To: Lynch, Nancy
Subject: RE: Changes to Draft 4

Nancy, we're still working on the changes you want on pp. 120 and 211, but I thought I'd send you what we have so far.

Regarding the changes to the analysis:

I can't make the suggested change in the second paragraph of the analysis, because it's a legal conclusion.

OKAY

In the fifth paragraph, I'm contrasting the limits placed on the board of regents and the lack of limits placed on the board of trustees. I don't think that your change conveys the same information.

PLEASE REVISE TO STATE: "THIS BILL REMOVES THESE SAME RESTRICTIONS FROM THE AUTHORITY AND AUTHORIZES THE BOARD OF TRUSTEES TO INDEPENDENTLY ESTABLISH TUITION."

X

Regarding the suggested change in the sixth paragraph: As far as I can tell, no moneys that the UW receives (like tuition, gifts, federal money, etc.) will be deposited in the state treasury. The appropriations consist of money that is *in* the state treasury that is appropriated to *you*.

WE NEED TO ARTICULATE THAT WE WILL STILL RECEIVE STATE FUNDING. WHAT ABOUT: "THE AUTHORITY WILL CONTINUE TO RECEIVE STATE BUDGET APPROPRIATIONS. THE AUTHORITY IS NOT REQUIRED TO DEPOSIT OTHER MONEYS IT RECEIVES INTO THE STATE TREASURY, BUT MUST TRANSFER DAILY TO THE STATE TREASURER FOR DEPOSIT INTO THE LOCAL GOVERNMENT POOLED-INVESTMENT FUND THE COLLECTED CASH BALANCE FROM ALL SOURCES EXCEPT GIFTS, GRANTS, AND DONATIONS."

✓

In the last paragraph, your suggestion does not state that the boards are abolished. I think I need to mention that.

UNDERSTAND. THANKS FOR CONSIDERING OUR PROPOSED LANGUAGE.

2/16/2011

On the top of page 4, the term "formal" is not used in the statute.

SORRY, IT'S A FAIRLY COMMON TERM FOR US AND WE THOUGHT IT WOULD HELP PEOPLE UNDERSTAND WHAT THE PROVISION REALLY INVOLVED RATHER THAN HAVING THEM GET UNNECESSARILY EXERCISED ABOUT IT IF THE WORD "FORMAL" IS NOT USED.

Regarding the change suggested for page 209: Someone's got to decide. In reality, I suspect you and the UWS can work it out and the secretary will come into play only if there's a dispute. But the contracts have to be transferred on the effective date. We can't let them be in limbo with language that says the two parties will work it out; even if it required the parties to do so by a certain date, who administers the contract during the interim? I recognize there are flaws with both systems. All I can say is that we used our standard language here, and we've never heard of a problem.

UNDERSTAND YOUR POINT AND LANGUAGE IS FINE. WE FIGURED THE PROCESS WOULD DEVOLVE TO JUST THOSE OVER WHICH THERE IS A DISPUTE, BUT WANTED TO HIGHLIGHT THE NUMBER OF CONTRACTS INVOLVED IF THE SECRETARY WAS REALLY EXPECTED TO DECIDE EACH CONTRACT.

Peter

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 1:44 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Changes to Draft 4

Peter,

Attached is a pdf containing pages of Draft 4 (sent to us 2/14) on which we have outlined our changes. Please let us know if you have questions about any of the changes. Thanks.

Nancy

Nancy K. Lynch
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<http://legal.wisc.edu>

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 9:07 AM
To: Kunkel, Mark
Subject: RE: 1187

I told Wendy last night to send her email to Jeff. You've gone above and beyond....

I think you're right, by the way.

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 9:00 AM
To: Jackson, Wendy; Grant, Peter; Kuesel, Jeffery
Subject: RE: 1187

Re: 13.48 (13) (a):

The scored x-ref to (d) should be eliminated. In an earlier version, Jeff created 13.48 (13) (d) which said that no construction undertaken by ... the UW Madison is subject to any zoning, etc. Jeff deleted 13.48 (13) (d) in response to DOA's instructions, so the x-ref should be eliminated.

However, I think a reference to the UW-Madison must be added to p 10 line 22 of LRB-1187/P2. Jeff, please look at this and confirm.

-- Mark

From: Jackson, Wendy
Sent: Tuesday, February 15, 2011 6:48 PM
To: Grant, Peter; Kunkel, Mark
Subject: 1187

On p. 8, line 8, should s. 13.48 (3) be amended to include the University of Wisconsin-Madison in the sentence, "The building commission may designate the department of administration or the agency for which the project is constructed to act as its representative in such accounting"?

I added a reference to the UW-Madison in s. 13.48 (4) (title).

In 13.48 (13) (a), why are you double-drafting? And in the treatment of s. 13.48 (13) (a), as affected by 2011 Wisconsin Act 7, I cannot figure out the scored x-ref. to par. (d).

On p. 78, there is a *****Note beneath the renumbering and amendment of s. 36.25 (5) (a). I deleted the Note because there is no *****Note following s. 37.25 (5) (a).

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 9:18 AM
To: Kunkel, Mark
Subject: RE:

Right.

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 9:16 AM
To: Grant, Peter
Subject: RE:

I would add:

As discussed yesterday, we eliminated s. 37.19 (2) from the previous version and replaced it with new text for s. 37.19 (2) that is on page 125, lines 5 to 14. However, we did discover 2 cross references to 37.19 that we had to address. As pointed out in the note following page 171, line 11, we changed one cross reference from 37.19 to 37.19 (1). We think that change works. However, as pointed out in the note following page 189, line 5, we changed a cross reference from s. 39.17 (2) to 39.17 (1). We're not so sure about that change. Please review.

From: Grant, Peter
Sent: Wednesday, February 16, 2011 9:09 AM
To: Kunkel, Mark
Subject:

I'm going to send this to Nancy and Lisa. Is it okay? Is there anything you want to add?

On p. 125, line 12, does the phrase "all appointments made beginning on July 1, 2012" mean "all appointments made on and after that date," or does it mean "beginning July 1, 2012, all appointments regardless of when made"?

On the same page, line 15, should the cross references be "ss. 37.13 (4) and (5), 37.15, 37.17, and 37.19"? It seems to me that 37.13 (5) and 37.19 offer procedural guarantees that you may not want to apply in a financial emergency.

Grant, Peter

From: Grant, Peter
Sent: Wednesday, February 16, 2011 9:22 AM
To: 'Lynch, Nancy'; 'lrutherford@vc.wisc.edu'
Subject: questions

Nancy and Lisa, a few questions for you.

On p. 125, line 12, does the phrase "all appointments made beginning on July 1, 2012" mean "all appointments made on and after that date," or does it mean "beginning July 1, 2012, all appointments regardless of when made"?

On the same page, line 15, should the cross references be "ss. 37.13 (4) and (5), 37.15, 37.17, and 37.19"? It seems to us that 37.13 (5) and 37.19 offer procedural guarantees that you may not want to be applicable in a financial emergency.

As discussed yesterday, we eliminated s. 37.19 (2) from the previous version and replaced it with new text for s. 37.19 (2) that is on page 125, lines 5 to 14. However, we discovered 2 cross references to 37.19 that we had to address. As pointed out in the note following page 171, line 11, we changed one cross reference from 37.19 to 37.19 (1). We think that change works. However, as pointed out in the note following page 189, line 5, we changed a cross reference from s. 39.17 (2) to 39.17 (1). We're not so sure about that change. Please review.

Peter and Mark

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Tuesday, February 15, 2011 12:47 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Answer to questions
Importance: High

Peter,

Our answers to your questions:

1. Page 106, line 14: this is an example of a number of spots where the term "promulgate" is used in referring to rules. And this section directs UW police to enforce "rules promulgated *under this chapter*." Do you intend for the UW police to enforce all "rules" adopted under ch. 37 even if they are not promulgated under ch. 227? Only the rules under 37.11 (1m) (a), (c) and (cm) and (8) are promulgated under ch. 227.

Answer: suggest using "rules established or promulgated under this chapter"

2. Page 124, line 19: should "extension" be stricken?

Answer: safest approach is to leave it in.

3. On page 153, sections 332 and 333, we added references to 37.27 (3n) and (3p). Shouldn't the same thing be done in 36.27 (3n) (b) and (3p) (b) and 37.27 (3n) (b) and (3p) (b)?

Answer: In reviewing those sections, it looks like the already appropriately cite each other.

Not sure what you are asking to be changed. Sorry.

4. On page 193, lines 18-19, should this refer only to the board of trustees of the UW-Madison, only to the board of regents of the UW System, or to both?

Answer: We think it is best if you add the Regents back in.

We have a few additional changes that will be coming shortly. Thanks.

Nancy

Kunkel, Mark

From: Malaise, Gordon
Sent: Wednesday, February 16, 2011 10:45 AM
To: Kunkel, Mark
Subject: RE: LRB-1187/P2 anaylsis

Not really because the changes do not change any facts on the ground. The ch. 39 provisions currently cover UW-Madison. Under the bill they will cover U of W, which results in no change to anything.

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 10:42 AM
To: Malaise, Gordon
Cc: Grant, Peter
Subject: LRB-1187/P2 anaylsis

Gordon, is there anything we should add to the analysis to describe the changes you made to ch. 39?

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 11:17 AM
To: 'Lynch, Nancy'; Rutherford, Lisa
Cc: Kunkel, Mark
Subject: Addition to bill

Lisa and Nancy, we think that s. 38.28 (1m) (a) 2. and (4) should be amended to include university as defined in s. 37.01 (9). Currently, UW-Madison is an institution, so it's included. In the bill, it's no longer an institution, and as far as I know, there's no other institution or college campus located in MATC. If you think these provisions should not be amended, let us know.

Peter

Kunkel, Mark

From: Hurley, Peggy
Sent: Wednesday, February 16, 2011 11:25 AM
To: Kunkel, Mark
Subject: RE: LRB-1187/P2 analysis

Under current law, DOJ represents the state, state agencies, and state employees in certain legal proceedings, reviews, and actions. Under the bill, DOJ represents the Board of Trustees of the University of Wisconsin-Madison as a department of state government and the officials, employees, and agents of the Board as state officials, employees, and agents for the purpose of representation in civil and criminal proceedings, and upon request, for the purpose of appearing for and representing the Board or its officials, employees, or agents at an administrative or civil court proceeding.

Does that work?

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 11:13 AM
To: Hurley, Peggy
Subject: LRB-1187/P2 analysis

In the big UW draft, we include the following. Can you give me a sentence for the analysis on what it does?

SECTION 458. 165.25 (8r) of the statutes is created to read:

165.25 **(8r)** BOARD OF TRUSTEES OF THE UNIVERSITY OF WISCONSIN. In subs. (1), (1m), (6) and (6m), treat the Board of Trustees of the University of Wisconsin-Madison as a department of state government and any official, employee, or agent of the Board of Trustees as a state official, employee or agent.

Kunkel, Mark

From: Hurley, Peggy
Sent: Wednesday, February 16, 2011 12:43 PM
To: Kunkel, Mark
Cc: Grant, Peter
Subject: RE: One more analysis questions

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 11:45 AM
To: Hurley, Peggy
Subject: One more analysis questions

Sorry to bug you again, but can you give me a sentence on what the following do?

SECTION 532. 893.82 (2) (d) 4. of the statutes is created to read:

893.82 (2) (d) 4. An officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison.

Under current law, no one may sue a state officer, employee, or agent who is acting in his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. With few exceptions, current law limits damages in a case against a state officer, employee, or agent who is acting his or her official capacity for damages to \$250,000.

Under the bill, no one may sue an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison who is acting within his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. The bill limits damages in a case against an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison who is acting his or her official capacity for damages to \$250,000.

SECTION 533. 895.46 (10) of the statutes is created to read:

895.46 (10) An officer, director, employer, or agent of the Board of Trustees of the University of Wisconsin–Madison is a state officer, employer, or agent for the purposes of this section.

Under current law, generally if a public officer or a state employee is sued in an official capacity or for actions undertaken within the scope of his or her employment, the state or the political subdivision that employs the officer or employee will provide legal counsel to the defendant officer or employee or will cover legal costs for the officer or employee. If damages are assessed against the officer or employee, the state or political subdivision will pay the damages.

Under the bill, an officer, director, employer, or agent of the Board of Trustees of the University of Wisconsin–Madison is treated as a state officer, employer, or agent and the state will provide or pay for legal counsel and pay any damages that are assessed against the officer, employer, or agent in his or her official capacity or for actions undertaken within the scope of his or her employment.

Mark - please have the UW & DOA read this part over carefully - s. 895.46 contains references to the employing state agency or department. It is unclear who is the employing agency here - the state? The Board? If the employer, the one on the hook under this section for legal fees and damages is the state, then I think it's fine as drafted. If it's the University of Wisconsin–Madison (or the Board of Trustees of the University of Wisconsin–Madison), then I think that should be spelled out.

I think there is a typo in SECTION 533 of the bill - I think it should say employee, not employer.

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 1:03 PM
To: Kunkel, Mark
Subject: RE: One more analysis questions

sure

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 1:01 PM
To: Grant, Peter
Subject: FW: One more analysis questions

Peter, I want to forward this to the UW with the following intro from me. Let me know if that's okay.

Please review the language in blue below which is an attempt to describe the creation of 893.82 (2) (d) 4. and 895.46 (10). Peggy Hurley drafted the language. She is an LRB attorney who drafts in those chapters of the statutes. Also note her comments and please give us your feedback.

From: Hurley, Peggy
Sent: Wednesday, February 16, 2011 12:43 PM
To: Kunkel, Mark
Cc: Grant, Peter
Subject: RE: One more analysis questions

SECTION 532. 893.82 (2) (d) 4. of the statutes is created to read:

893.82 (2) (d) 4. An officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison.

Under current law, no one may sue a state officer, employee, or agent who is acting in his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. With few exceptions, current law limits damages in a case against a state officer, employee, or agent who is acting his or her official capacity for damages to \$250,000. Under the bill, no one may sue an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison who is acting within his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. The bill limits damages in a case against an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin–Madison who is acting his or her official capacity for damages to \$250,000.

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Under current law, generally if a public officer or a state employee is sued in an official capacity or for actions undertaken within the scope of his or her employment, the state or the political subdivision that employs the officer or employee will provide legal counsel to the defendant officer or employee or will cover legal costs for the officer or employee. If damages are assessed against the officer or employee, the state or political subdivision will pay the damages. Under the bill, an

officer, director, employer, or agent of the Board of Trustees of the University of Wisconsin-Madison is treated as a state officer, employer, or agent and the state will provide or pay for legal counsel and pay any damages that are assessed against the officer, employer, or agent in his or her official capacity or for actions undertaken within the scope of his or her employment.

COMMENTS of PJH - please have the UW & DOA read this part over carefully - s. 895.46 contains references to the employing state agency or department. It is unclear who is the employing agency here - the state? The Board? If the employer, the one on the hook under this section for legal fees and damages is the state, then I think it's fine as drafted. If it's the University of Wisconsin-Madison (or the Board of Trustees of the University of Wisconsin-Madison), then I think that should be spelled out.

I think there is a typo in SECTION 533 of the bill - I think it should say employee, not employer.

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 1:04 PM
To: Kunkel, Mark
Subject: FW: Your questions

I sent this to Ben in response to his email.

From: Grant, Peter
Sent: Wednesday, February 16, 2011 12:56 PM
To: 'Griffiths, Ben'
Subject: RE: Your questions

Ben, I think "with gifts, grants, and trust fund income" works. Or we could go with "any moneys other than moneys appropriated under s. 20.280." Is the latter too broad?

From: Griffiths, Ben [mailto:BGRIFFITHS@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 12:09 PM
To: Grant, Peter
Cc: Lynch, Nancy; Rutherford, Lisa
Subject: Your questions

Hi Peter: please let me address several of your questions embedded in the bill language.

Sec. 78, page 29, creation of 16.705(1r)(d). I used the phrase "non-appropriated" funds because 16.705 (1r) excepts certain categories of purchases of contractual services from the general requirement that contractual services can only be purchased if they are performed within the U.S. The existing exception for UW System in (1r)(d), that we want to create a Madison parallel to, excepts contractual services funded by various gifts, grants and trust funds that, for the new UW, will no longer be appropriated funds. Would it be cleaner to say "Contractual services purchased by the Board of Trustees of the University of Wisconsin System with funds other than general purpose revenue." Or "from gift and grants funds and trust fund income."?

Sec. 82, page 30, creation of 16.73(4m). This language is perfect.

Thank you for all your hard work on this.

Ben

Kunkel, Mark

From: Grant, Peter
Sent: Wednesday, February 16, 2011 1:05 PM
To: Kunkel, Mark
Subject: RE: One more analysis questions

Nancy Lynch or Lisa Rutherford or both. Do you have email that you can copy their addresses from?

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 1:03 PM
To: Grant, Peter
Subject: RE: One more analysis questions

send it to who?

From: Grant, Peter
Sent: Wednesday, February 16, 2011 1:03 PM
To: Kunkel, Mark
Subject: RE: One more analysis questions

sure

From: Kunkel, Mark
Sent: Wednesday, February 16, 2011 1:01 PM
To: Grant, Peter
Subject: FW: One more analysis questions

Peter, I want to forward this to the UW with the following intro from me. Let me know if that's okay.

Please review the language in blue below which is an attempt to describe the creation of 893.82 (2) (d) 4. and 895.46 (10). Peggy Hurley drafted the language. She is an LRB attorney who drafts in those chapters of the statutes. Also note her comments and please give us your feedback.

From: Hurley, Peggy
Sent: Wednesday, February 16, 2011 12:43 PM
To: Kunkel, Mark
Cc: Grant, Peter
Subject: RE: One more analysis questions

SECTION 532. 893.82 (2) (d) 4. of the statutes is created to read:

893.82 (2) (d) 4. An officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin—Madison.

Under current law, no one may sue a state officer, employee, or agent who is acting in his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. With few exceptions, current law limits damages in a case against a state officer, employee, or agent who is acting his or her official capacity for damages to \$250,000. Under the bill, no one may sue an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin-Madison who is acting within his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. The bill limits damages in a case against an officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin-Madison who is acting his or her official capacity for damages to \$250,000.

SECTION 533. 895.46 (10) of the statutes is created to read:

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Under current law, generally if a public officer or a state employee is sued in an official capacity or for actions undertaken within the scope of his or her employment, the state or the political subdivision that employs the officer or employee will provide legal counsel to the defendant officer or employee or will cover legal costs for the officer or employee. If damages are assessed against the officer or employee, the state or political subdivision will pay the damages. Under the bill, an officer, director, employer, or agent of the Board of Trustees of the University of Wisconsin-Madison is treated as a state officer, employer, or agent and the state will provide or pay for legal counsel and pay any damages that are assessed against the officer, employer, or agent in his or her official capacity or for actions undertaken within the scope of his or her employment.

COMMENTS of PJH - please have the UW & DOA read this part over carefully - s. 895.46 contains references to the employing state agency or department. It is unclear who is the employing agency here - the state? The Board? If the employer, the one on the hook under this section for legal fees and damages is the state, then I think it's fine as drafted. If it's the University of Wisconsin-Madison (or the Board of Trustees of the University of Wisconsin-Madison), then I think that should be spelled out.

I think there is a typo in SECTION 533 of the bill - I think it should say employee, not employer.

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 1:26 PM
To: Grant, Peter; Rutherford, Lisa
Subject: RE: Claims
Signed By: nlynch@vc.wisc.edu

Peter,

893.82 is sufficient and we do not need to be included in 893.80. Section 893.80 is that section that applies to UWHC with respect to NOCs and damages cap. We currently do not fall within it, and did not think it better to be moved from 893.82 to 893.80. We want to keep the AG's office as the receiver of our NOCs, and we did not think the 50,000 damages cap in 893.80 would ever fly with the legislature.

From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 12:42 PM
To: Lynch, Nancy; Rutherford, Lisa
Subject: Claims

We amended 893.82, as you requested. We're wondering why you chose to amend that section instead of 893.80. Do you think that 893.80 should also be amended, or is 893.82 sufficient?

Peter and Mark

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 1:27 PM
To: Grant, Peter; Rutherford, Lisa
Cc: Kunkel, Mark
Subject: RE: Addition to bill
Signed By: nlynch@vc.wisc.edu

Peter,

We agree that you should add us. Thanks.

Nancy

Nancy K. Lynch
Associate Director
Senior University Legal Counsel
Administrative Legal Services
University of Wisconsin-Madison
361 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706
Email: nlynch@vc.wisc.edu
Tele: 608.263.7400
Fax: 608.263.4725
<http://legal.wisc.edu>

From: Grant, Peter [<mailto:Peter.Grant@legis.wisconsin.gov>]
Sent: Wednesday, February 16, 2011 11:17 AM
To: Lynch, Nancy; Rutherford, Lisa
Cc: Kunkel, Mark
Subject: Addition to bill

Lisa and Nancy, we think that s. 38.28 (1m) (a) 2. and (4) should be amended to include university as defined in s. 37.01 (9). Currently, UW-Madison is an institution, so it's included. In the bill, it's no longer an institution, and as far as I know, there's no other institution or college campus located in MATC. If you think these provisions should not be amended, let us know.

Peter

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 1:37 PM
To: Grant, Peter; Rutherford, Lisa
Subject: RE: questions
Signed By: nlynch@vc.wisc.edu

Answers are below in all caps.

Nancy K. Lynch
 Associate Director
 Senior University Legal Counsel
 Administrative Legal Services
 University of Wisconsin-Madison
 361 Bascom Hall
 500 Lincoln Drive
 Madison, Wisconsin 53706
 Email: nlynch@vc.wisc.edu
 Tele: 608.263.7400
 Fax: 608.263.4725
<http://legal.wisc.edu>

From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 9:22 AM
To: Lynch, Nancy; Rutherford, Lisa
Subject: questions

Nancy and Lisa, a few questions for you.

On p. 125, line 12, does the phrase "all appointments made beginning on July 1, 2012" mean "all appointments made on and after that date," or does it mean "beginning July 1, 2012, all appointments regardless of when made"?

FIRST PHRASE IS CORRECT - "ALL APPOINTMENTS MADE BEGINNING ON JULY 1, 2012 MEAN 'ALL APPOINTMENTS MADE ON AND AFTER THAT DATE'" ✓

On the same page, line 15, should the cross references be "ss. 37.13 (4) and (5), 37.15, 37.17, and 37.19"? It seems to us that 37.13 (5) and 37.19 offer procedural guarantees that you may not want to be applicable in a financial emergency.

YES BUT SHOULD IT BE 37.19(2)(a) and (b) rather than just 37.19? ✓

As discussed yesterday, we eliminated s. 37.19 (2) from the previous version and replaced it with new text for s. 37.19 (2) that is on page 125, lines 5 to 14. However, we discovered 2 cross references to 37.19 that we had to address. As pointed out in the note following page 171, line 11, we changed one cross reference from 37.19 to 37.19 (1). We think that change works. However, as pointed out in the note following page 189, line 5, we changed a cross reference from s. 39.17 (2) to 39.17 (1). We're not so sure about that change. Please review.

PAGE 171 CROSS REFERENCE INDICATED IS FINE. PAGE 189 - MAKE IT 37.19(2)(a) and (b) INSTEAD OF 37.19(1) ✓

Peter and Mark

2/16/2011

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 2:06 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Additional responses to Draft 5
Signed By: nlynch@vc.wisc.edu
 Peter,

*Rick - could you look at this for us?
 Thanks PG & MDK*

Changes to the most recent draft.

1. I know you were not focusing on the summary changes, but I'm still requesting that my revised suggestions be adopted (see my email from late yesterday afternoon) The few changes I retained are very important.

2. p. 119, note after line 3 - answer is yes.

3. p. 128, note after line 22 - answer is yes

4. p. 171 note after line 11 - answer is yes

5. p. 172 note after line 13 - is this just left over or do you know of other changes to 40 that we haven't seen yet?

4. p. 223 - lines 18-20 need to be deleted and replaced with the specific language we sent yesterday. Your language does not maintain the supplemental sick leave conversion program for our employees. Our language is repeated here for ease: The Department of Employee Trust Funds shall continue to administer the program defined in section 230.12(9) on behalf of employees of the University of Wisconsin-Madison as defined in ss. 37.13, 37.15 and 37.17 until June 30, 2012.

We are up to date on all your questions other than Mark's follow up on 893 and 895. That will be coming shortly.

Thanks.

Nancy

email w/ cc PD Hance

*DN
 give you Robert
 lag. In answer
 what it does.*

Nancy K. Lynch
 Associate Director
 Senior University Legal Counsel
 Administrative Legal Services
 University of Wisconsin-Madison
 361 Bascom Hall
 500 Lincoln Drive
 Madison, Wisconsin 53706
 Email: nlynch@vc.wisc.edu
 Tele: 608.263.7400
 Fax: 608.263.4725
<http://legal.wisc.edu>

*Wendy/1 out
 in ON*

Grant, Peter

From: Wilson, Lisa A [lwilson@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 2:33 PM
To: Kunkel, Mark; Lynch, Nancy; Rutherford, Lisa
Cc: Grant, Peter
Subject: RE: Chs. 893 and 895
Peter, et al.,

I agree with Peggy Hurley's assessment as to the effect of section 893.82(2)(d)4.

In response to her questions regarding section 895.46(10), I agree that "employer" should be changed to "employee". That was a typo. Additionally, the goal of subsection (10) in specifying that employees and agents of the Board of Trustees are employees and agents of the state for purposes of section 895.46 was to ensure that the state is responsible for legal fees and damages. This is an important factor in maintaining our sovereign immunity. Peggy states that if the intent of sub (10) is for the state to assume liability for attorney fees and damages, then the section as drafted is fine as is. I agree.

Lisa

Lisa A. Wilson
University Legal Counsel
University of Wisconsin-Madison
500 Lincoln Drive, Bascom Hall Rm 361
Madison, WI 53706
Office: 608-262-2668
Cell: 608-212-8015
Fax: 608-263-4725
lwilson@vc.wisc.edu

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 1:09 PM
To: Lynch, Nancy; Rutherford, Lisa
Cc: Grant, Peter
Subject: Chs. 893 and 895

We asked Peggy Hurley, an LRB attorney, to describe the creation of 893.82 (2) (d) 4. and 895.46 (10), which we may need to add to the analysis of the bill. Please see her description in blue below, along with her comments, and please give us your feedback.

PS I think she's right about the typo (employer should be employee).

From: Hurley, Peggy
Sent: Wednesday, February 16, 2011 12:43 PM
To: Kunkel, Mark
Cc: Grant, Peter

2/16/2011

Subject: RE: One more analysis questions

SECTION 532. 893.82 (2) (d) 4. of the statutes is created to read:

893.82 (2) (d) 4. An officer, director, employee, or agent of the Board of Trustees of the University of Wisconsin—Madison.

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COMMENTS of PJH - please have the UW & DOA read this part over carefully - s. 895.46 contains references to the employing state agency or department. It is unclear who is the employing agency here - the state? The Board? If the employer, the one on the hook under this section for legal fees and damages is the state, then I think it's fine as drafted. If it's the University of Wisconsin—Madison (or the Board of Trustees of the University of Wisconsin—Madison), then I think that should be spelled out.

I think there is a typo in SECTION 533 of the bill - I think it should say employee, not employer.

Grant, Peter

From: Griffiths, Ben [BGRIFFITHS@vc.wisc.edu]


Sent: Wednesday, February 16, 2011 3:26 PM

To: Grant, Peter

Cc: Lynch, Nancy; Rutherford, Lisa

Subject: One more question

Dear Peter: hopefully this is not too late to be of use, but I have a question about section 381 of the bill (page 171), amending 40.52(3) – unless I am missing something I think we need a "Board of Trustees" reference next to the second reference to the Board of Regents because the Board of Trustees will also designate graduate assistants and employees-in-training. I.e., should this read: "The group insurance board, after consulting with the Board of Trustees of the University of Wisconsin-Madison and the Board of Regents of the University of Wisconsin System, shall establish the terms of a health insurance plan for graduate assistants, and for employees-in-training designated by the Board of Trustees or the Board of Regents, (rest can stay the same)." It is a pretty clumsy statute to begin with, but I don't want to inadvertently exclude Madison's graduate assistants and employees-in-training from insurance coverage!



I apologize if this has already been pointed out, or if there are other reasons why this change would not be necessary.

Ben

2/16/2011

Grant, Peter

From: Grant, Peter
Sent: Wednesday, February 16, 2011 3:33 PM
To: 'Lynch, Nancy'
Cc: Hanle, Bob - DOA
Subject: RE: Additional responses to Draft 5

Hi Nancy,

On page 223, lines 18 to 20, although we are not sure what it does, we will substitute your exact language shown below. With one change: I think you mean "until July 1, 2012," right? "Until June 30" means until 12:01 am on June 30. (I cc'ed Bob Hanle on this email because this is the kind of information that we usually put in a drafter's note. We don't plan on writing a drafter's note to accompany this draft.)

Regarding page 172, after line 13, we think the note is simply left over from a much earlier draft.

Regarding the fifth paragraph of the analysis: I can't write, "This bill removes these restrictions from the authority...." because the restrictions never applied to the authority. I did not add the rest of your sentence (about authorizing the Board of Trustees to establish tuition) because I think it's implied by my statement, "The bill places no limit on the amount of tuition the Board of Trustees may charge." If you think that statement is incorrect in any way, please let me know.

At your request, I added a sentence in the sixth paragraph about the authority receiving state funding.

Peter

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 2:06 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Additional responses to Draft 5

Peter,

Changes to the most recent draft.

1. I know you were not focusing on the summary changes, but I'm still requesting that my revised suggestions be adopted (see my email from late yesterday afternoon) The few changes I retained are very important.
2. p. 119, note after line 3 - answer is yes.
3. p. 128, note after line 22 - answer is yes
4. p. 171 note after line 11 - answer is yes
5. p. 172 note after line 13 - is this just left over or do you know of other changes to 40 that we haven't seen yet?
4. p. 223 - lines 18-20 need to be deleted and replaced with the specific language we sent yesterday. Your language does not maintain the supplemental sick leave conversion program for our employees. Our language is repeated here for ease: The Department of Employee Trust Funds shall continue to administer the program defined in section 230.12(9) on behalf of employees of the University of Wisconsin-Madison as defined in ss. 37.13, 37.15 and 37.17 until June 30, 2012.

2/16/2011

We are up to date on all your questions other than Mark's follow up on 893 and 895. That will be coming shortly.

Thanks.

Nancy

Nancy K. Lynch
Associate Director
Senior University Legal Counsel
Administrative Legal Services
University of Wisconsin-Madison
361 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706
Email: nlynch@vc.wisc.edu
Tele: 608.263.7400
Fax: 608.263.4725
<http://legal.wisc.edu>

Grant, Peter

From: Hanle, Bob - DOA [bob.hanle@wisconsin.gov]
Sent: Wednesday, February 16, 2011 5:02 PM
To: Hanaman, Cathlene; Grant, Peter
Cc: Schmiedicke, David P - DOA; Grinde, Kirsten - DOA
Subject: Last minute change
Importance: High

We need a change to draft LRB 1187 to address a cash balance issue. I'm not sure which drafter should get this. Please see below:

- Repeal Section 159 in the bill
- Add language to increase the 30-day additional interfund borrowing limit contained in 20.002 (11)(b)3, to a level that offsets the UW-Madison cash - from 3% to 6%.

Thanks much.

Bob Hanle, Team Leader
State Budget Office
101 E. Wilson St. -- 10th Floor
P.O. Box 7864
Madison, WI 53707-7864
(608) 266-1037

Grant, Peter

From: Lynch, Nancy [NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 5:40 PM
To: Grant, Peter
Cc: Hanle, Bob - DOA
Subject: RE: Additional responses to Draft 5
Signed By: nlynch@vc.wisc.edu

Peter,

1. P. 223 - we struggled with language and a location for the language that is needed to keep university employees covered under the supplemental sick leave conversion program because it is not in Ch. 40, but is through the comp plan. This was the best mechanism to assure their coverage for at least the year through July 1, 2012. Thanks for the catch on the date.

2. Okay

3. Fifth paragraph: I'm sorry to be so insistent on this, but can we instead say "Under this bill, these restrictions do not apply to the authority and the Board of Trustees will establish tuition." I'm okay if you want to delete the "and the Board...", but would ask that you at least use the first portion of the revised sentence I just provided.

4. Thank you for adding the piece about state funding.

5. Did you add the portion about employees retaining Ch. 40 benefits?

6. The bid section at the end of the summary - Ben offered some language for your consideration:

"With some exceptions, purchases for which the estimated cost exceeds \$25,000 require state agencies to solicit sealed bids or solicit bidding by auction, while purchases for which the estimated cost is \$25,000 or less may be made under simplified bidding procedures. Under this bill, the authority may make purchases under the simplified bidding procedures if the estimated cost does not exceed \$50,000. Purchases for which the estimated cost exceeds \$50,000 will continue to be solicited under sealed bids or bidding by auction."

Nancy

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2/16/2011

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From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 3:33 PM
To: Lynch, Nancy
Cc: Hanle, Bob - DOA
Subject: RE: Additional responses to Draft 5

Hi Nancy,

On page 223, lines 18 to 20, although we are not sure what it does, we will substitute your exact language shown below. With one change: I think you mean "until July 1, 2012," right? "Until June 30" means until 12:01 am on June 30. (I cc'ed Bob Hanle on this email because this is the kind of information that we usually put in a drafter's note. We don't plan on writing a drafter's note to accompany this draft.)

Regarding page 172, after line 13, we think the note is simply left over from a much earlier draft.

Regarding the fifth paragraph of the analysis: I can't write, "This bill removes these restrictions from the authority...." because the restrictions never applied to the authority. I did not add the rest of your sentence (about authorizing the Board of Trustees to establish tuition) because I think it's implied by my statement, "The bill places no limit on the amount of tuition the Board of Trustees may charge." If you think that statement is incorrect in any way, please let me know.

At your request, I added a sentence in the sixth paragraph about the authority receiving state funding.

Peter

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 2:06 PM
To: Grant, Peter
Cc: Rutherford, Lisa
Subject: Additional responses to Draft 5

Peter,

Changes to the most recent draft.

1. I know you were not focusing on the summary changes, but I'm still requesting that my revised suggestions be adopted (see my email from late yesterday afternoon) The few changes I retained are very important.
2. p. 119, note after line 3 - answer is yes.
3. p. 128, note after line 22 - answer is yes
4. p. 171 note after line 11 - answer is yes
5. p. 172 note after line 13 - is this just left over or do you know of other changes to 40 that we haven't seen yet?
4. p. 223 - lines 18-20 need to be deleted and replaced with the specific language we sent yesterday.

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Your language does not maintain the supplemental sick leave conversion program for our employees. Our language is repeated here for ease: The Department of Employee Trust Funds shall continue to administer the program defined in section 230.12(9) on behalf of employees of the University of Wisconsin-Madison as defined in ss. 37.13, 37.15 and 37.17 until June 30, 2012.

We are up to date on all your questions other than Mark's follow up on 893 and 895. That will be coming shortly.

Thanks.

Nancy

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Grant, Peter

From: Vaughan, Brian [bvaughan@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 5:41 PM
To: Grant, Peter
Cc: Rutherford, Lisa; Lynch, Nancy; Vaughan, Brian
Subject: RE: questions
Peter,

Regarding your question below: "Do you want 111.81 (7) (h) to refer to the appointments described in the version of 37.19 (2) that we decided to eliminate yesterday during our phone call?" The answer is yes. We can use the language from the old 37.19 (2) that you refer to below and remove the cross reference to 37.19. To that end, I propose the following amended language for 111.81(7)(h):

"Staff appointed by the Board of Trustees of the University of Wisconsin-Madison except faculty, academic staff, limited-term employees, sessional employees, project employees, supervisors, management, persons who are privy to confidential matters affecting the employer-employee relationship, persons whose employment is a necessary part of their training, student assistants, and student hourly help."

Brian

From: Lynch, Nancy
Sent: Wednesday, February 16, 2011 5:03 PM
To: Vaughan, Brian
Subject: FW: questions

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From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 2:30 PM
To: Lynch, Nancy
Subject: RE: questions

Nancy, on p.189, line 3, we're concerned about the reference to "staff appointed under 37.19 (2)." Looking at 37.19 (2) (a), we don't see anyone appointed. It grants procedural rights to certain employees. Sub. (2) (b) refers to appointments made on or after July 1, 2012, but doesn't authorize those appointments. Do you want 111.81 (7) (h) to refer to the appointments described in the version of 37.19

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(2) that we decided to eliminate yesterday during our phone call?

Peter

From: Lynch, Nancy [mailto:NLYNCH@vc.wisc.edu]
Sent: Wednesday, February 16, 2011 1:37 PM
To: Grant, Peter; Rutherford, Lisa
Subject: RE: questions

Answers are below in all caps.

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From: Grant, Peter [mailto:Peter.Grant@legis.wisconsin.gov]
Sent: Wednesday, February 16, 2011 9:22 AM
To: Lynch, Nancy; Rutherford, Lisa
Subject: questions

Nancy and Lisa, a few questions for you.

On p. 125, line 12, does the phrase "all appointments made beginning on July 1, 2012" mean "all appointments made on and after that date," or does it mean "beginning July 1, 2012, all appointments regardless of when made"?

FIRST PHRASE IS CORRECT - "ALL APPOINTMENTS MADE BEGINNING ON JULY 1, 2012 MEAN 'ALL APPOINTMENTS MADE ON AND AFTER THAT DATE'"

On the same page, line 15, should the cross references be "ss. 37.13 (4) and (5), 37.15, 37.17, and 37.19"? It seems to us that 37.13 (5) and 37.19 offer procedural guarantees that you may not want to be applicable in a financial emergency.

YES BUT SHOULD IT BE 37.19(2)(a) and (b) rather than just 37.19?

As discussed yesterday, we eliminated s. 37.19 (2) from the previous version and replaced it with new text for s. 37.19 (2) that is on page 125, lines 5 to 14. However, we discovered 2 cross references to 37.19 that we had to address. As pointed out in the note following page 171, line 11, we changed one cross reference from 37.19 to 37.19 (1). We think that change works. However, as pointed out in the note following page 189, line 5, we changed a cross reference from s. 39.17 (2) to 39.17 (1). We're not so sure about that change. Please review.

PAGE 171 CROSS REFERENCE INDICATED IS FINE. PAGE 189 - MAKE IT 37.19(2)(a) and (b) INSTEAD OF

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37.19(1)

Peter and Mark